

MONO COUNTY ENVIRONMENTAL HANDBOOK

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INTRODUCTION

1. PURPOSE OF HANDBOOK

This Environmental Handbook has been prepared for use by Mono County and the public to facilitate the day-to-day evaluation of discretionary projects within the unincorporated area. The Handbook is not intended to be a recital of or substitute for the California Environmental Quality Act (CEQA) and CEQA Guidelines prepared by the State, but rather is to be used in conjunction with these documents. If there is any conflict or inconsistency between this Environmental Handbook and CEQA, the State law and guidelines shall control. Applicable sections of State law, Public Resources Code (PRC) and the Guidelines (GL) are noted throughout this handbook in parentheses. The Environmental Handbook is intended to:

- A. Implement the California Environmental Quality Act - Law and Guidelines,
- B. Preserve, protect and enhance the natural and human environment of Mono County,
- C. Establish a procedure to identify, review and evaluate environmental aspects of projects that are under the jurisdiction of the Board of Supervisors, or any of the departments, special districts or commissions that they govern,
- D. Encourage the incorporation of environmental considerations into project conceptualization, design and planning at the earliest feasible time.

2. CEQA BACKGROUND

The California Environmental Quality Act (CEQA) was enacted by the state legislature in 1971. CEQA applies to local government-initiated plans, projects and regulations, and to private projects requiring discretionary approval from a state or local agency. The basic purpose of CEQA is to:

- A. Inform governmental decision-makers and the public about the potential significant environmental effects of proposed projects,
- B. Identify ways environmental impacts can be avoided or significantly reduced,
- C. Prevent significant, avoidable impacts to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and
- D. Disclose to the public the reasons why a governmental agency approved the project if significant environmental effects are involved. (GL Section 15002)

CEQA includes policy direction and environmental reporting requirements to achieve this purpose. Specifically, CEQA states “that public agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen the significant environmental effect of such projects” and further states “that in the event specific economic, social or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

Environmental reporting requirements focus on the Environmental Impact Report (EIR), which is required on any project “which may have a significant effect on the environment” (PRC Section 21151). Through the EIR process, CEQA places a responsibility on public agencies to avoid or minimize environmental impacts where feasible, through actions such as:

- 1) Changing the project;
- 2) Imposing conditions on the approval of the project;
- 3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;
- 4) Choosing an alternative way to achieve the same need;
- 5) Disapproving the project;
- 6) Finding that changing or altering the project is not feasible; and
- 7) Finding that the unavoidable significant environmental impacts are acceptable given the projects beneficial effects (GL Section 15093).

ENVIRONMENTAL REVIEW PROCESS

I. PRE-APPLICATION PROCESS

A. Pre-application Conference

Prior to submitting an application for a planning permit, Mono County encourages the applicant to contact the Planning Department for a preliminary review of the project concept and an informal identification of probable environmental concerns. If a complex or potentially controversial project is contemplated, planning staff may suggest that a pre-application meeting be held before the County’s Land Technical Advisory Committee to assist in refining the project design to avoid anticipated environmental impacts. The pre-application conference will include input from the Public Works Department, the Health Department, and other applicable county departments, as well as a review of the permit process and time frames for the project.

B. Environmental Review Prior to a Permit Application

An applicant may request and apply for an environmental assessment and/or request preparation of an Environmental Impact Report prior to and independent of applying for any other permit. However, there must be sufficiently detailed project information for a meaningful assessment, and necessary fees must be paid. If the proposal is changed or amended, another environmental assessment will be required to review the specific changes in project and determine what further environmental review necessary

PRELIMINARY REVIEW OF APPLICATION

Once an application is filed, staff will conduct a preliminary review to determine:

- a) whether it should be recommended to the decision-making body that the project has insufficient merit to warrant further consideration;
- b) whether the application is complete; or
- c) whether the project is exempt from CEQA.

A. Project Merit

During the initial review of the application, staff may determine that the project is inconsistent with county regulations, and find that as proposed, the project lacks sufficient merit to proceed with processing. If the applicant fails to make recommended project modifications to allow for application processing, staff may refer the application to the decision-maker for direction on whether the application should be processed. Costs associated with a referral to the decision-maker shall be borne by the applicant. (see Planning Department fee schedule)

B. Review of Application for Completeness

The Planning Department is allowed thirty (30) days to review the completeness of project applications. If no written determination of the application is made within the 30 day period, the application will be deemed complete on the thirtieth (30th) day. If the application is not complete, the applicant will be notified in writing of any additional information necessary to complete the application. If additional information is required, the County will have 30 days after receiving the additional information to determine if the application is complete. Accepting an application as complete does not limit the authority of the department to subsequently require the applicant to submit additional information needed for environmental evaluation of the project.

C. Environmental Information Form

As part of the application, the applicant must complete an Environmental Information Form and submit it with the project application and required fees. The purpose of the environmental information form is to provide the County with information useful in determining how compliance with CEQA can be assured. To expedite the processing of a project, the applicant should be as specific as possible in filling out the environmental information form.

D. Evaluating Projects for CEQA Exemptions

- 1. Filing Notice of Exemption.
 - During the preliminary review of an application, staff will screen the application to determine its CEQA status. The application will be considered exempt from further environmental review procedures under CEQA if any of the following are found:
 - a) the proposed activity is not a "project" according to CEQA (GL Section 15378);
 - b) the project qualifies for a statutory or categorical exemption; or
 - c) there is no possibility the project could have a significant effect on the environment (GL Section 15061)

In each of these cases, a Notice of Exemption will be filed with the County Clerk upon project approval; the Clerk will post a list of such notices for a period of 30 days. The filing of a notice of exemption concludes the environmental processing for exempt projects. The following summarizes the exempt status of various types of projects:

1. Exemptions

Projects Exempt by Statute

The following projects have been presumed exempt by the State Legislature:

- final subdivision maps;
- building permits;
- business licenses;
- individual utility service connections and disconnections.

Categorically Exempt Projects

Various classes of projects found by the State Secretary for Resources not to have a significant environmental impact, including:

- minor alteration of land (minor grading, landscaping, etc.);
- minor alteration of land use (lot line adjustment, reversion to acreage, etc.);
- minor alteration of existing structures, equipment, or topographic feature;
- replacement or reconstruction of existing structures or facilities;
- construction or conversion of small structures;
- information collection, such as resource evaluation activities that do not result in a serious or major disturbance to an environmental resource;
- accessory structures;
- land acquisition for conservation purposes;
- Land ownership transfer to create a park;
- enforcement actions.

2. Exceptions to Exemptions

Although identified as exempt, some of the aforementioned projects may still have a significant impact on the environment if they:

- a) are located in a particularly sensitive environment;
- b) result in a cumulative impact when considered with projects of the same type in the same place, over time;
- c) have unusual circumstances where there is a reasonable possibility that the activity will have a significant effect on the environment (GL Section 15300.2).

3. Commonly Exempt Projects

The following identifies exempt projects commonly processed by county departments. Consultation with environmental staff will determine on a case-by-case basis which projects are actually exempt. (Refer to GL Section 15300).

a) Exempt Projects (Planning Department):

- 1) Lot line adjustment;
- 2) Setback variance;
- 3) Director's Review Permit;
- 4) Review of building plans for Zoning Code compliance;
- 5) Parking lots (generally less than twenty (20) spaces);
- 6) Zoning Enforcement;
- 7) Mergers;
- 8) Secondary Housing;
- 9) Review of Business License;
- 10) Certificate of Compliance
- 11) Placement of Mobilehome.

b) Exempt Projects (Public Works):

- 1) Street repair in existing right-of-way;
- 2) New traffic control devices including painting curbs or stripes, traffic signs or traffic signals and changes in speed limits;
- 3) Extension of public utilities to serve less than four (4) units;
- 4) Encroachment permits (less than 3 feet).

- 5) Dead tree removal
- 6) Acceptance of voluntary dedication (except on collector or arterial streets);
- 7) Grading Permits for less than 200 cubic yards for which a Soils Engineer is not required;
- 8) Purchase of land in its natural state for parks if the land is in its natural state, or contains a historic site or archaeological site, and either no management plan is prepared or said plan will keep the area in a natural state or preserve the historic site or archaeological site.

c) Exempt Projects (Building Department):

- 1) All Building Permits (excluding demolition permits);
- 2) Building Code Enforcement.

d) Exempt Projects (County Counsel):

- 1) Most litigation, opinions and legal reports.

e) Exempt Projects (Auditor's Office):

- 1) Budget;
- 2) Sale of Government property (except parks or areas of critical concern);
- 3) Purchasing equipment;
- 4) Financial investments (Treasurer).

f) Exempt aspects (County Clerk-Recorder):

- 1) Business License issuance;
- 2) Minutes and Agenda preparation;
- 3) Keeping of files.

g) Other Exemptions:

- 1) Grant applications (excluding physical work) or as required by granting agency;
- 2) Personnel matters;
- 3) Routine or legislatively prescribed administrative or ministerial duties.

III. THE INITIAL STUDY

A. The Initial Study Process

Upon acceptance of the Environmental Information Form and a complete application, and once staff has determined that the discretionary project may possibly have a significant effect on the environment and that it is not categorically exempt, the formal environmental evaluation of the project will begin. This evaluation, known as the Initial Study, will analyze the potential impact of the project on the various environmental resources in the area. This Initial Study will provide baseline information and document why a project may or may not be subject to an EIR.

B. Solicitation of Comments/Information

During the initial study, Planning staff may consult with other county departments, all responsible agencies, and trustee agencies responsible for resources affected by the project to determine whether an EIR or a Negative Declaration should be prepared. Prior to recommending an environmental determination, the Planning Department may request additional information from the applicant, and may review the project with the County's Land Technical Advisory Committee (LTAC). If determined necessary, the Planning Department may require the applicant to provide an expanded environmental information form and/or supporting technical studies.

CEQA encourages project proponents to incorporate environmental constraints and considerations into project conceptualization, design and planning at the earliest feasible time. The initial study process may enable an applicant, or the County with the applicant's consent, to modify a project to mitigate adverse impacts before an environmental determination is made, thereby enabling the project to qualify for a negative declaration. In order to avoid the need for an EIR , the applicant may be required to supply additional environmental information or even technical studies to help document that the project has no potential for impacting the environment. If an EIR is required, the initial study should assist in the preparation of an EIR by focusing the EIR on the effects determined to be significant; identifying the effects determined not to be significant; and explaining the reasons for determining that potentially significant effects would not be significant.

C. Initial Study Format

The initial Study will consist of the following:

- a project description, including location
- an identification of the environmental setting
- an identification of environmental impact
- a discussion of mitigation measures, if applicable
- an examination of the project's consistency with local land use regulations

Although the County utilizes an environmental checklist as a framework for the initial study, in almost all cases the checklist will be supplemented with a written analysis of the possible impacts.

D. EIR or Negative Declaration

The county will determine whether a Negative Declaration or an EIR will be required for a project within 30 days from the acceptance of a complete application. This period may be extended 15 days upon the consent of the County and the applicant. In evaluating the significant effects of a project and the type of needed environmental documentation, Section 15064 of the CEQA guidelines will be consulted, together with other appropriate criteria and case law.

IV. NEGATIVE DECLARATION

A Negative Declaration is a written statement by the County describing reasons why a proposed project will not have a significant effect on the environment and will therefore not require the preparation of an Environmental Impact Report. In some instances, the Negative Declaration will identify potentially significant effects and it may also identify how these impacts can be avoided or mitigated to a point where no significant effects will occur. This form of Negative Declaration is commonly referred to as a Mitigated Negative Declaration.

A. Decision to Prepare a Negative Declaration (GL Section 15070).

A proposed Negative Declaration shall be prepared for a project when either: (a) The Initial Study shows that there is no substantial evidence that the project may have a significant effect on the environment, or (b) the Initial Study identifies potentially significant effects, but:

- 1. revisions or redesign of the project plans or proposals made or agreed to by the applicant before the proposed Negative Declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
- 2. there is no substantial evidence before the agency that the project as revised may have a significant effect on the environment.

B. Negative Declaration Format

Where the Initial Study shows that it is proper, staff will prepare a proposed Negative Declaration , which will consist of:

- a) a brief description of the project;
- b) the project location;
- c) a copy of the Initial Study; and
- d) a proposed finding that the project will not significantly impact the environment.

C) Public Notices (GL Section 15072).

Notice that the County proposes to adopt a Negative Declaration shall be provided to the public a minimum of twenty-one (21) days prior to the adoption of the proposed Negative Declaration. The County shall file notice of the proposed Negative Declaration with all organizations and individuals who have previously requested such notice. The notice shall also be posted with the County Clerk and be published at least one time in a newspaper of general circulation in the area affected by the proposed project, or in such other time and manner as may be required by law. A copy of the notice with the proposed Negative Declaration shall be sent to every responsible agency and trustee agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project.

D. Public Review of Negative Declaration (GL Section 15073).

The 21 day review period is intended to provide members of the public with sufficient time to respond in writing to the proposed finding before the Negative Declaration is submitted to the State Clearinghouse for review by State agencies, the public review period shall be not less than thirty days unless a shorter period is approved by the State Clearinghouse. Most projects in Mono County will require Clearinghouse review. Although a public hearing on the adoption of a Negative Declaration is not required by CEQA, Mono County generally allows public input on a proposed Negative Declaration during the public hearing on the associated development project.

E. Issuance of Negative Declaration

Prior to approving a project for which a Negative Declaration has been prepared, the decision-making body shall consider the proposed Negative Declaration and the Initial Study as well as any comments received during the review process. In approving a Negative Declaration, the decision-making body shall find that there is no “substantial evidence” that the project may have a significant effect on the environment. As required by law, it shall also adopt a reporting and monitoring program prior to or at the time of project approval (see also Chapter VIII of this Handbook). Following a decision to approve a project based upon a Negative Declaration, the Planning Department will file a Notice of Determination within five working days (PRC Section 21152). The Notice of Determination consists of a description of the project, the date of approval, the determination that the project will have no significant environmental effects, and a statement that a Negative Declaration has been prepared and can be examined at a particular location. The payment of Department of Fish and Game filing fees in accordance with PRC Section 21089 may be required at the time of filing the Notice of Determination.

F. Project and Environmental Changes

If the decision-making body determines that changes in the project or its mitigation measures are necessary, and if these changes may result in significant environmental effects, an additional environmental analysis shall be conducted in the manner required by the law. If a Negative Declaration with mitigation measures is to be issued, the applicant must agree to all project changes prior to the release of the Negative Declaration for public review.

G. Negative Declaration Time Limits

The proposed Negative Declaration must be prepared within 105 days of the acceptance of a completed application. Reasonable extensions of this time limit are permissible in compelling circumstances if the applicant consents (GL Section 15107). Projects receiving Negative Declarations must be approved or disapproved within six months of receiving a completed application (Gov. Code Section 65950).

V. ENVIRONMENTAL IMPACT REPORT

An Environmental Impact Report (EIR) is a detailed statement prepared in accordance with CEQA, which describes and analyzes the significant environmental effects of a project, and discusses ways to mitigate or avoid the effects.

A. Decision to Prepare EIR (GL Section 1508 1).

The EIR process starts with the decision to prepare an EIR. This decision may be made (1) at the staff level if an EIR will clearly be required (GL Section 15060), or (2), at the option of the applicant or by the decision-making body (GL Section 15064). It should be emphasized that it is the County's intent, in accordance with CEQA (GL Section 15070), to encourage the applicant to design or modify a project to avoid significant effects and thereby avoid the time and costs involved in preparing an EIR. However, if it is determined that a project may have a significant adverse effect on the environment, an EIR will be required for the project. For certain projects, such as open-pit mining operations, EIRs are required by statute (PRC 21151.7).

B. Notice of Preparation and Scoping (GL Section 15104).

In order to expedite consultation and ensure that the scope of the EIR has been thoroughly defined, staff will initiate a scoping meeting early in the EIR preparation process. In most instances, the scoping meeting will be conducted concurrently with the Notice of Preparation process (GL Section 15082) and prior to the preparation of a scope of work for the EIR, thereby allowing any appropriate additional information needs or concerns to be addressed in the work program. Responsible and trustee agencies will be invited to the scoping meeting; staff shall also attempt to notify and invite any persons or organizations that have expressed interest in the project or that staff believes will be concerned with the environmental effects of the project. The State Office of Planning and Research may be requested by staff to assist in convening meetings which involve State agencies.

C. Early Public Consultation (GL Section 15083).

The County may consult directly with any person or organization it believes will be concerned with the environmental effects of the project prior to completing the Draft EIR. Early consultation may solve potential problems that would arise in more serious forms later in the review process. Early public consultation will be coordinated with the scoping process whenever feasible.

D. Review of Environmental Documents Prepared by Other Agencies

Environmental documents received by the County for review should be referred to the County Planning Department. The County Planning Department will act as the clearinghouse for County review of environmental documents prepared by other agencies. The Planning Department may request additional copies of a document if other departments will also need to make comments. On major projects that could have significant environmental effects in the unincorporated area of the county, the review of the environmental document may be scheduled for LTAC discussion and comment. In reviewing environmental documents the County will focus on the sufficiency of the document in identifying and analyzing potential environmental impacts, alternatives and ways the impacts may be avoided or mitigated. For environmental documents addressing projects within an incorporated area of the county, County comments will generally focus on potential impacts to the surrounding unincorporated area.

E. Who Prepares EIR

The Planning Department, or the Energy Management Department for energy projects, may at its discretion, choose to:

- prepare the EIR with its own staff, with staff time funded by the applicant;
- prepare the EIR with its own staff, with staff time funded by the applicant, and also with the assistance of consultants funded by the applicant and retained by the County; or
- execute a third party contract to govern the preparation of an EIR, whereby the County selects the environmental consultant, and staff directly supervises EIR preparation.

The County will either prepare routine EIRs, or hire independent consultants through a competitive selection procedure on a project-by-project basis. Independent consultants may be retained to prepare technical studies to be used by county staff to prepare an EIR. Consultant projects costing less than \$7,500 may be processed through an informal request for proposals process, and contracts may be signed by the County Administrative Officer. Applicants for private projects fund the EIR work by submitting a deposit to cover the estimated cost to the County. County staff will notify the applicant of the actual or estimated cost of staff time and/or the consultant's services. The applicant shall bear costs for both EIR preparation and county's costs associated with processing the EIR.

Since the County is responsible for the sufficiency of EIRs, most technical studies used for EIR preparation should be conducted under contract with the County. Those studies submitted by the applicant may require verification by an applicant-funded consultant under contract with the County. In order to reduce potential duplication of effort, the applicant should contact the Planning Department before producing such studies. Often the material can be generated within the scope of work of the EIR, therefore eliminating duplication and insuring objectivity. The County may hire independent consultants, at the applicant's expense, to verify the accuracy of such EIR studies and reports. The County may also subcontract with consultants for special studies necessary for EIR preparation: such contracts of less than \$7,500 may be authorized and approved by the County Administrative Officer. All contracts in excess of \$7,500 shall be approved by the Board of Supervisors.

F. Initial EIR Preparation Process.

If County Staff prepares the EIR, the EIR preparation process will be as follows:

1. Applicant places initial EIR deposit on file with the Planning Department.
2. Environmental staff assesses EIR issues, conducts scoping sessions as necessary, and issues Notice of Preparation. Based upon input received, staff prepares Scope of Work and estimates costs.
3. The applicant and staff review the work program and estimated costs of the work.
4. Applicant deposits remaining monies with the Planning Department to cover the estimated cost of the EIR.
5. Staff initiates process to subcontract with consultants for specialized studies (if applicable), and begins EIR preparation.

If an independent consultant is utilized, the EIR preparation process will be as follows:

1. Applicant places initial EIR deposit with the planning department.
2. Environmental staff assesses EIR issues, conducts scoping sessions as necessary, and issues Notice of Preparation (NOP). Based upon input received, staff prepares Scope of Work, and Request for Proposals (RFP). In some instances, the NOP may be issued after a consultant has been retained.
3. RFP is distributed to appropriate consulting firms.
4. Consultants prepare proposals to perform the scope of work.

5. Staff with input from applicant, reviews proposals. and selects top proposals. Finalists for the project are interviewed by planning staff or selection committee.
7. County staff selects firm.
8. County Counsel draws up contract.
9. Board of Supervisors approves contract.
10. Applicant places deposit with the Planning Department equal to the not-to-exceed cost estimate of the selected consultant to complete an EIR under contract less any monies paid for the initial EIR deposit. Consultant begins EIR preparation.

G. Screen Check EIR

In addition to the regular communication and information sharing that will occur throughout the EIR process between planning staff and the consultants, the consultant will also prepare a preliminary administrative or "Screen Check" Draft EIR for the County's review. This screen check draft will be reviewed by staff for its accuracy and conformance with the CEQA guidelines. The Planning Department may also request other applicable departments to review the draft for its technical accuracy, and for complex projects, schedule a review of the draft before the County LTAC. The County is responsible for the adequacy and objectivity of the draft EIR, and the draft which is released for public review must reflect the independent judgment of the County. Following the County review of the screen check draft, the consultant will make applicable changes to the document before printing and distributing the Draft for public review.

H. Public Review of Draft EIR

The draft EIR shall be distributed to agencies, including adjacent cities and counties, and interested parties in accordance with CEQA. Costs associated with EIR distribution shall be reimbursed by the applicant; the County may also charge a reasonable fee from members of the public for a copy of the EIR. The public review period for most EIRs will be 45 days. The review period will not be less than 30 days nor more than 90 days unless unusual circumstances exist. Public review and comment periods will usually be coordinated by the State Clearinghouse. The County may choose to extend the comment period beyond that established by the Clearinghouse. Comments received during this period will be forwarded to the consultant for responses. The County will request that comments prepared by agencies having jurisdiction over natural resources affected by the project also include a proposed reporting or monitoring program for changes or mitigation requested by the agency.

I. Final EIR

At the close of the review period, the County will cause the preparation of responses to the comments: if these comments are prepared by a consultant, they will be reviewed by planning staff prior to publication of the Final EIR. Following final review and approval by staff, copies of the Final EIR will be printed and distributed to the decision-makers at least ten days in advance of public hearings on the project. The Final EIR will also be made available for public review at Planning Department Offices, and may be purchased for a fee that reflects the cost of reproduction. Agencies and individuals reviewing the Final EIR should focus on the responses to comments on the draft EIR, and should submit their comments prior to or during the public hearings on the project

J. Adoption of Final EIR and Approval or Disapproval of Project

Prior to approving a project, the decision-making body shall certify that the Final EIR has been completed in the manner required by law. In instances where the Planning Commission is acting in an advisory capacity to the Board of Supervisors, the Commission will recommend environmental findings to accompany its recommendation on the project; the Board of Supervisors, however, must actually certify the EIR in these instances.

K. Findings.

If the final EIR finds that the project has one or more significant effects, the decision-making body shall make the findings required by Section 15091 and 15093 of the Guidelines prior to approving or carrying out the project. Such findings shall be supported by substantial evidence in the record. The decision-making body shall also adopt a reporting or monitoring program to assure compliance with the project conditions, in accordance with PRC Section 21081.6.

L. Completion and Certification Time Limits

For private projects, the County must compete and certify the final EIR within one year from the date of accepting a completed project application. With the concurrence of the applicant, the County may extend the time limit. The County may also either suspend the time limit or disapprove the project if there is an unreasonable delay by the applicant in meeting County requests.

VI. ENVIRONMENTAL REVIEW FEES

A. Environmental Determinations. (Review of Environmental Information Form and Completion of Initial Study).

- 1. A two hundred dollar (\$200) filing fee will be charged at the time the application is submitted on projects . The final charge will be calculated on the basis of actual County costs less the initial filing fee. Actual County costs are charged at forty dollars (\$40.00) per hour for professional/technical staff time expended and twenty dollars (\$20.00) per hour for clerical staff time expended.
- 2. Categorical Exemptions will be charged a flat fee of fifty dollars (\$50.00).

B. EIR Administrative Fees. (Preparation. Processing and Review of EIRs)

- 1. An initial EIR deposit of one thousand five hundred dollars (\$1,500.00) shall be required for all private projects. This fee is due and payable upon completion of the initial study and determination that an EIR is required. These fees shall be applied to the cost of preparing the EIR.
- 2. An initial administrative fee of \$250 is also required upon completion of the initial study and determination that an EIR is necessary. This fee will be applied to cover the initial costs of processing the EIR. Additional costs for staff time to process the EIR will be billed periodically calculated on the basis of actual County costs (forty dollars (\$40.00) per hour for professional/technical staff time expended, and twenty dollars (\$20.00) per hour for clerical time expended).
- 3. Upon signing of the EIR contract/agreement, projects requiring EIRs shall place on deposit with the Planning Department a sum equal to the not-to-exceed cost estimate for EIR preparation, less any monies paid for the initial EIR deposit. These deposit fees are due and payable before any EIR work can commence.

VII. EIR and Monitoring' Consultants

Consulting firms interested in preparing EIRs or conducting environmental monitoring for the County must send a letter of interest/statement of qualification to the County Planning Office. Qualified consultants are placed on a County list of EIR consultants. The criteria used in the selection process for a specific project include, but are not limited to, the following factors:

- Knowledge, skills and relevant educational background to analyze specific areas of impact cited in EIRs.
- EIR experience,
- Previous experience and competent environmental documentation within Mono County.

The final selection of a consultant will normally be on a competitive basis unless special circumstances warrant selection of a specific firm. An EIR consultant under contract to the County is a supplement to environmental staff. Failure to follow instructions, unethical business practices such as conflicts of interest, noncompliance with contract conditions, substandard quality of work or non-cooperation with staff, represent a basis for project suspension or removal from future consideration for contracts with Mono County.

VIII. Mitigation Monitoring

State law (AB 3180, Public Resources Code Section 21081.6) requires that a reporting and monitoring program be adopted or made a condition of project approval to ensure compliance with project mitigation measures or conditions requiring monitoring. This requirement may apply to any Negative Declaration or EIR. The following outlines County procedures for complying with the monitoring requirement.

A. Types of Mitigation Measures

Different types of mitigation measures will require various types of monitoring techniques. To assist in distinguishing types of mitigation, the following categories are identified:

1. Project Design Mitigation Measures (Project Specific)
Measures incorporated into the project design to mitigate an impact are referred to as a project design mitigation measure. These measures are usually shown on the building or grading plan, and can include such items as a retention basin or an acoustical barrier. Project design mitigation measures can be monitored through the normal plan check process. An approved project with project design mitigation measures will be submitted for plan check with a list of mitigation measures attached. The plan checker will review the plans to confirm that each design mitigation measure has been shown, a notation will be made on an established form, and the plans will be signed off. If a mitigation measure is not shown, the plans will be sent back for corrections. Plans will not be approved until all mitigation measures have been incorporated into the project design. After the plans are approved, and before the final inspection of the building, the project proponent shall submit proof that each mitigation measure shown on the plans has been installed or incorporated into the constructed project. In some instances, county representatives may conduct spot checks to verify the reports. Verification of compliance will then be noted on the monitoring form and signed off, thereby completing the process for the particular project design mitigation measure.

2. Ongoing Mitigation Measure (Project Specific)
An ongoing mitigation measure is one that is associated with a project over a period of time, such as dust control, or landscape maintenance. Monitoring of ongoing mitigation measures will occur in a manner similar to project design mitigation measures, except that the status of each mitigation measure will be noted at various times until no longer needed. The project applicant will be required to submit periodic status reports for the ongoing mitigation measures until mitigation is complete.

3. Cumulative Mitigation Measures
Cumulative mitigation measures may require monitoring over a longer period of time and may be linked to the occurrence of future developments. An example is road or sewer improvements that are necessary to mitigate impacts of several developments. Cumulative measures will usually be monitored in the same manner as project specific impacts, except that they will be noted as cumulative on the checklist, and will usually be monitored over a greater period of time.

B. The Monitoring Program

1. Monitoring Program Development and Contents
The monitoring program shall be developed as part of the draft EIR or Negative Declaration by the project's environmental consultant, or if a small scale project, by planning staff. If prepared by planning staff the costs will be borne by the proponent. The monitoring program will categorize each mitigation measure as identified above, and will note the general monitoring and reporting process for each measure, the schedule for compliance, any specialized or unique monitoring techniques to be utilized; the entity or agency responsible for implementing the measure, and the agency or department responsible for verifying compliance.

2. Outside Consultants

For certain large projects that require extensive or specialized monitoring, the hiring of an independent consultant may be required. The consultant will be hired by the County in conformance with Section VII of this Handbook. Costs for monitoring consultants will be borne by the proponent. See also Chapter 16.05 of the Mono County Code.

3. Other Agencies

It is the responsibility of other agencies to monitor mitigation measures which they request for specific projects approved by the County. The County will request that any mitigation measures proposed by the agency during the environmental review and comment period of a project be accompanied by a proposed reporting and monitoring program. Following approval of the project, the County will notify the agency which of their proposed mitigation measures have been incorporated into the project. It will then be the responsibility of that agency to ensure compliance with the reporting and monitoring program for that (the) mitigation measure(s), and to inform the County in writing when each mitigation measure has been complied with.

C. Mitigation Monitoring Fees

1. Processing Fees

The County may charge and collect a fee that does not exceed the actual costs incurred by county staff to develop and/or implement a mitigation monitoring and reporting program for a project. Either a set fee will be established or the project monitoring costs will be billed at a rate of forty dollars (\$40) per hour for professional/technical staff time and twenty dollars (\$20) per hour for clerical staff time. The project proponent may be required to provide the County an initial deposit to be applied towards estimated monitoring costs: any unused portion of the initial deposit would be refunded upon compliance with the applicable mitigation measure. The County may also require additional deposits to cover unforeseen costs and/or periodically bill the project for ongoing mitigation monitoring costs

2. Consultant Fees

The costs associated with the hiring of a consultant will be borne by the project proponent. A deposit will be required to cover the not to exceed estimates of the consultants costs for providing monitoring and reporting services. The consultant selection procedure is described in Chapter VII of this Handbook.

3. Bonding / Surety

To ensure that certain mitigation measures are fully complied with, the County may require the posting of a performance bond or other surety (e.g. irrevocable letter of credit, corporate surety bond, escrow account, cash) with the County. The surety amount shall reflect the cost for carrying out the mitigation, plus an appropriate contingency fee (generally 15-50%) to account for administrative costs and inflationary costs that may be incurred if the County has to carry through with the mitigation measure at a later date. The County may release applicable portions of the surety upon completion of various phases of mitigation.

IX. APPEAL OF ENVIRONMENTAL DECISIONS

Environmental determinations of the Planning Director or other applicable County department director may be appealed to the Planning Commission in the manner specified in Chapter 19.42 of the Mono County Code. Similarly, environmental determinations of the Planning Commission may be appealed to the Board of Supervisors in the manner specified in Chapter 19.42 of the Mono County Code. The public notice, appeal hearing, and action on appeal shall also be in accordance with Chapter 19.42.

On projects approved by the Planning Commission, but not appealed to the Board of Supervisors, the filing of the Notice of Determination starts the 30-day statute of limitations on court challenges to the approval under CEQA. Those wishing to appeal a project's environmental determination are encouraged to first exhaust the available administrative remedies by appealing the decision to the Board of Supervisors, prior to pursuing a challenge in Superior Court.

Board of Supervisors environmental determinations are considered final for all purposes unless an interested party commences judicial action in Superior Court, as provided for in CEQA and the CEQA Guidelines.